

109TH CONGRESS
2D SESSION

S. 2468

To provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2006

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. STANDING FOR DECLARATORY AND INJUNC-**
2 **TIVE RELIEF FOR PERSONS WHO REFRAIN**
3 **FROM ELECTRONIC COMMUNICATIONS BY**
4 **REASON OF FEAR OF WARRANTLESS ELEC-**
5 **TRONIC SURVEILLANCE.**

6 (a) **STANDING.**—A United States citizen who has re-
7 frained or will refrain from wire communications because
8 of a reasonable fear that such communications will be the
9 subject of electronic surveillance conducted without an
10 order issued in accordance with title I of the Foreign Intel-
11 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
12 under a claim of Presidential authority under either the
13 Constitution of the United States or the Authorization for
14 Use of Military Force (Public Law 107–40; 115 Stat. 224;
15 50 U.S.C. 1541 note) shall have a cause of action and
16 shall be entitled to declaratory or injunctive relief with re-
17 spect to such electronic surveillance.

18 (b) **RULES APPLICABLE TO ACTIONS.**—In any action
19 for declaratory or injunctive relief under subsection (a),
20 the following shall apply:

21 (1) The action shall be filed in the United
22 States District Court for the District of Columbia
23 and shall be heard by a 3-judge court convened pur-
24 suant to section 2284 of title 28, United States
25 Code.

1 (2) A copy of the complaint shall be delivered
2 promptly to the Attorney General, the Clerk of the
3 House of Representatives, and the Secretary of the
4 Senate.

5 (3) A reasonable fear shall be established by
6 evidence that the person bringing the action—

7 (A) has and will continue to have regular
8 wire communications from the United States to
9 one or more persons in Afghanistan, Iraq, Paki-
10 stan, or any country designated as a state spon-
11 sor of terrorism in the course of that person's
12 paid employment doing journalistic, academic,
13 or other research pertaining to terrorism or ter-
14 rorist groups; or

15 (B) has engaged and will continue to en-
16 gage in one or more commercial transactions
17 with a bank or other financial institution in a
18 country described in subparagraph (A).

19 (4) The procedures and standards of the Classi-
20 fied Information Procedures Act (18 U.S.C. App.)
21 shall apply to the action.

22 (5) A final decision in the action shall be re-
23 viewable only by appeal directly to the Supreme
24 Court of the United States. Such appeal shall be
25 taken by the filing of a notice of appeal within 10

1 days, and the filing of a jurisdictional statement
2 within 30 days, of the entry of the final decision.

3 (6) It shall be the duty of the United States
4 District Court for the District of Columbia and the
5 Supreme Court of the United States to advance on
6 the docket and to expedite to the greatest possible
7 extent the disposition of the action and appeal.

8 (c) DEFINITIONS.—In this section, the terms “elec-
9 tronic surveillance” and “wire communication” have the
10 meaning given such terms in section 101 of the Foreign
11 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

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